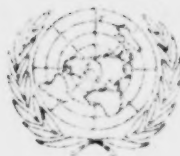


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SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE
OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 6th MEETING

Held at Headquarters, New York,
on Monday, 28 August 1978, at 10.30 a.m.

Chairman: Mr. Cuevas CANCINO (Mexico)

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The meeting was called to order at 10.55 a.m.

CONSIDERATION, PURSUANT TO PARAGRAPH 2 OF GENERAL ASSEMBLY RESOLUTION 32/150,
OF PROPOSALS AND SUGGESTIONS SUBMITTED BY STATES (continued) (A/AC.193/L.3)

1. Mr. FIFOOT (United Kingdom) recalled that the Committee's mandate, as set out in operative paragraph 2 of General Assembly resolution 32/150, was to consider ways of promoting not only the non-use of force in international relations but also the peaceful settlement of disputes, two principles to which his country was committed and which it believed must be strengthened in order to enhance the effectiveness of the United Nations. The Committee had very wide discretion as to how it fulfilled that mandate: it could draft a treaty, or it could draw up such other recommendations as it deemed appropriate. It therefore seemed inappropriate, and certainly astonishingly premature, for the Committee to take as a starting point document A/AC.193/L.3, which assumed that the outcome of the Committee's deliberations would be a treaty, or to maintain, as the representative of the Soviet Union had done, that a "main goal" of the Committee was to produce a treaty on the non-use of force in international relations. For the time being, the Committee's task must be to examine both of the principles which he had mentioned with a view to finding ways of making them more effective.

2. His delegation believed that, even on its own terms, document A/AC.193/L.3 lacked conviction. It also bore a very close resemblance to document A/31/243, which had been submitted to the General Assembly at its thirty-first session. In his view, there was nothing to be gained by qualifying the principle of the non-use of force. Indeed, such qualification might, by compression or omission, detract from the original, more general principle. Moreover, if a second document was drafted in treaty form which added nothing substantive to the provisions of an earlier treaty, it might call into question the effect of that earlier treaty. It would be a disservice to all that the United Nations stood for if the Committee were to give those countries which sought to avoid the Charter prohibition on the use of force a means of arguing that that prohibition had been overtaken by a later instrument or that the later instrument took account of some consideration which was not contemplated in the Charter and which therefore could only have a qualifying effect.

3. The basic problem was not that there was no rule prohibiting the use of force or that some States were unaware of the existence of such a rule. All States were aware that a clear and solemn rule did exist. However, some of them were prepared to break that rule or to maintain that it did not apply. Mere repetition of the injunction against the threat or use of force would not deter those States which were prepared to break the rule. A better deterrent would be to strengthen the machinery for resolving disputes, so as to reduce the number of occasions on which States resorted to force. In situations where States asserted or pretended that the injunction against the threat or use of force did not apply, the Committee would do well to consider the exceptions and reservations invoked by those States. The representative of India had attempted to deal with that issue when he had pointed out that some developing countries considered that self-defence was not the only situation in which the use of force was regarded as permissible.

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(Mr. Fifoot, United Kingdom)

4. The problem of asserted or implied exceptions or reservations to the principle of the non-use of force had various manifestations, not the least of which was the assertion that armed struggle was consistent with the Charter and that assistance to those engaged in armed struggle was, by implication at least, exempt from the injunction against the use of force. Such propositions were, however, by no means generally accepted as propositions of law. Apart from anything else, it was difficult to determine objective criteria for those who might invoke them as justification for the use of force.

5. Another commonly invoked exception to the injunction against the use of force related to the responsibility of States for encouragement of the use of force in international relations either by proxy or covertly, for example, the encouragement of organizations or groups of individuals to inflict violence on a weak State. States guilty of such encouragement all too often disclaimed responsibility for the ensuing violence or even attempted to justify it. Force was force, however, and the United Nations could not afford to turn a blind eye to it.

6. Another situation in which States sought to invoke exceptions to the injunction against the use of force in international relations was that in which religious orthodoxy was imposed by force on States which had developed what other States sharing the same creed regarded as heretical or schismatic views. Ancient and modern history abounded in examples of such situations, one example being the defenestration of Prague on 21 May 1618, which had led to the Thirty Years War.

7. The Committee could examine further the matter of exceptions and reservations to the principle of non-use of force. If it did so, however, it should remember that its mandate was to enhance the effectiveness of that principle and by no means to weaken it or to sanction exceptions to it.

8. His delegation believed that the most logical approach would be to concentrate on finding alternatives to the use of force, i.e. to concentrate on the positive injunction to settle international disputes by peaceful means. If the ability of the United Nations to promote the peaceful settlement of disputes could be strengthened, that would help to enhance international security and to reduce the number of occasions on which States resorted to the use of force.

9. Mr. ENHSAIHAN (Mongolia) recalled that General Assembly resolution 32/155 (Declaration on the Deepening and Consolidation of Détente) had been one of the latest in a series of international instruments calling for strict adherence to the principle of the non-use of force in international relations. His delegation's position on that subject had been expressed clearly at the thirty-second session of the General Assembly and also in its reply in document A/32/122.

10. If the effectiveness of the principle of the non-use of force in international relations was enhanced, that in turn would strengthen international peace and security, consolidate international détente and provide an additional guarantee for the safety of peoples. His delegation therefore supported fully the Soviet proposal to draft a world treaty on the non-use of force which would make that principle the main rule governing relations among all States.

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(Mr. Tshsaihan, Mongolia)

11. Although it was one of the fundamental principles of contemporary international law, the principle of the non-use of force had been violated on numerous occasions since it had been written into the United Nations Charter. When the Charter had been signed, nuclear weapons had been virtually non-existent. Since then, nuclear and other weapons of mass destruction had emerged, and they now threatened international peace and security. Moreover, local wars and conflicts using conventional weapons had caused incalculable suffering to millions of people in the post-war years, and the current network of military alliances carried with it the threat that such conflicts could escalate into another world war. It was therefore logical to take decisive steps to preclude the use of force as an instrument of national policy. In his delegation's view, States which invoked the inevitability of a new world war or which claimed large parts of the territory of neighbouring States were in effect threatening to use force.

12. It was clear from the response to the Soviet proposal to conclude a world treaty on the non-use of force that a large number of Member States supported that initiative. By drafting a treaty based on Article 2, paragraph 4, of the Charter, the Committee would in fact be following the traditional United Nations practice of embodying general principles of the Charter in multilateral instruments. The current détente in international relations created favourable political conditions for the conclusion of such a treaty, and the legal prerequisites for it were to be found in a succession of relevant instruments adopted by the United Nations over the years, the latest of which had been General Assembly resolution 32/155.

13. Document A/AC.193/L.3 contained a clear commitment by States to abide strictly by their undertaking not to use force or the threat of force in their mutual relations. In introducing that document, the Soviet representative had shown convincingly that the argument that a treaty on the subject might weaken the Charter was completely unfounded. In fact, the draft treaty on the non-use of force could serve as a basis for discussion and for the drafting of a mutually acceptable instrument. It was also clear from the draft treaty that nothing in the final treaty would prejudice either the right of States to individual or collective self-defence in accordance with Article 51 of the Charter or the inalienable right of colonial peoples to fight for their freedom and independence by any means at their disposal.

The meeting rose at 11.25 a.m.